



Town of Brookline

Massachusetts

BOARD OF APPEALS
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Jonathan Book
Christopher Hussey

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TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2015-0038
BEACON 1776 INVESTMENT PARTNERS LLC
1776 BEACON STREET, BROOKLINE, MA

Petitioner, Benjamin Hassan, applied to the Building Commissioner for permission to convert the mixed-use building comprised of six offices and one residential unit to six residential units and one office. The application was denied and an appeal was taken to this Board.

The Board administratively determined that the properties affected were those shown on a schedule certified by the Board of Assessors of the Town of Brookline and fixed January 7, 2016 at 7:05 p.m. in the Selectmen's Hearing Room as the date, time and place of a hearing for the appeal. Notice of the hearing was mailed to the Petitioner, to their attorney (if any) of record, to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published on December 24, 2015 and December 31, 2015 in the Brookline Tab, a newspaper published in Brookline. A copy of said notice is as follows:

NOTICE OF HEARING

Pursuant to M.G.L., C. 40A, the Board of Appeals will conduct a public hearing at Town Hall, 333 Washington Street, Brookline, on a proposal at:

1776 BEACON ST – CONVERT STRUCTURE FROM SIX OFFICES AND ONE RESIDENTIAL UNIT TO ONE OFFICE AND SIX RESIDENTIAL UNITS (3 STUDIOS AND 3 THREE-BEDROOM APARTMENTS) in an M-2.0, Apartment House, zoning district, on

January 7, 2016, at 7:05 PM in Town Hall Room 103 (Petitioner/Owner: BEACON 1776 INVESTMENT PARTNERS LLC) Precinct 13

The Board of Appeals will consider variances and/or special permits from the following sections of the Zoning By-Law, and any additional zoning relief the Board deems necessary:

- 1. Section 5.09.2.d: Design Review**
- 2. Section 6.02, Paragraph 1: Table of Off-Street Parking Requirements**
- 3. Section 6.01.2.a: General Regulations Applying to Required Off-Street Parking Facilities**
- 4. Section 8.02.1 and 2: Alteration or Extension**
- 5. Modification, as required, of BOA case #946, June 4, 1959 and modified December 17, 1997**

Hearings may be continued by the Chair to a date/time certain, with no further notice to abutters or in the TAB. Questions about hearing schedules may be directed to the Planning and Community Development Department at 617-730-2130, or by checking the Town meeting calendar at: www.brooklinema.gov.

*The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in Town programs and services may make their needs known to **Robert Sneirson, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2328; TDD (617)-730-2327; or email at rsneirson@brooklinema.gov.***

*Jesse Geller, Chair
Christopher Hussey
Jonathan Book*

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman Johanna Schneider and Board Members Christopher Hussey and Avi Liss. The case was presented by the attorney for the Petitioners, Robert L. Allen, Jr., Law Office of Robert L. Allen, Jr. LLP, 300 Washington Street, Second Floor, Brookline, Massachusetts 02445. Also in attendance was the Petitioner Benjamin Hassan and the Petitioner's architect, George Warner, Warner + Cunningham, 397 Newton Street, Chestnut Hill, MA 02467.

Chairman Schneider called the hearing to order at 7:05 p.m. Attorney Allen stated that the subject property is a four-story attached brownstone structure that currently contains six offices (4 general and 2 medical) and one residential unit located on the top two floors. He stated that the Petitioner proposes to convert all office units, excluding the basement office located on the Beacon

Street side, to residential units for a total of three multi-bedroom apartments, three studio units, and one general office. Attorney Allen stated that the surrounding neighborhood consists of similar multi-family dwellings and the proposed use complies with requirements for the zoning district. Attorney Allen stated that he believed the zoning relief for design review and parking was minimal.

Architect George Warner presented details of the proposed conversion. Mr. Warner reiterated that the top three floors (2-4) will consist of three multi-bedroom residential units. He stated that the existing floor area will not be altered, but the interior walls will be reconfigured and interior finishes renovated. Three efficiency studio units are proposed for the first floor as well as the rear portion of the basement level. Mr. Warner confirmed that the studio units comply with minimum floor area, emergency egress and natural light requirements in accordance with state building and health codes. He stated that a new basement entryway facing Beacon Street will be installed to provide access to the remaining office unit. Mr. Warner stated that existing brick and limestone building materials are "elegant" and excavation required to install the basement-level entry will minimize disruption of these building materials as much as possible. He stated that a below grade staircase will angle toward the basement from the existing front walkway and a full-size door will be installed to match existing doors in the immediate area.

Mr. Warner noted that the design is intended to minimize excavation and loss of front-yard green-space. He stated that the exposed areas of the front façade, resulting from excavation, will be repaired and rebuilt with a stucco veneer. Mr. Warner concluded his comments by stating that this style of basement entry is common along this portion of Beacon Street

Board Member Hussey requested that the Petitioner further describe the reasoning for the proposed basement entry. Chairman Schneider requested that the Petitioner address parking related zoning relief.

Attorney Allen stated that the proposed basement entry will improve access to the existing basement space and provide clear separation between the residential and office uses within the structure. Attorney Allen stated that the proposed design is intended to increase natural light at the basement level. Attorney Allen acknowledged that portions of the front yard will be altered, but the area will be re-landscaped to maintain a similar, if not improved, level of aesthetic.

Attorney Allen stated that the exterior alterations on the front façade triggered design review under **Section 5.09.2.d** of the Zoning By-Law and the Planning Board voted unanimously in support of this proposal. In addition, he stated that special permit relief was previously granted in **Board of Appeals Case No. 946 (June 4, 1959)** to permit four medical offices and **Board of Appeals Case No. 946A (December 17, 1997)** to modify the special permit and legalize two additional offices. He stated that as required, modification to the previous decisions triggers relief under **Section 8.02.2** of the Zoning By-Law.

Furthermore, Mr. Allen noted that current parking requirements necessitate 12.3 off-street parking spaces to serve the existing structure. He stated that the Building Department interprets the 12.3 spaces to be a theoretical parking credit. He confirmed that the proposed use results in an increased parking requirement of 1.6 spaces. He stated that the property provides 2 designated off-street parking spaces located to the rear of the structure and the Board of Appeals may waive up to 50% of the newly required parking spaces by special permit pursuant to **Section 6.01.2.a** of the Zoning By-Law.

Attorney Allen discussed special permit relief under **Section 9.05** of the Zoning By-Law arguing: (1) the specific site is an appropriate location in the M-2.0 District and the removal of office space will render the structure substantially more conforming with the neighborhood; (2) there will be no adverse effect on the neighborhood where the neighbors have been supportive of the conversion and the Petitioner agreed to monitor trash generation and collection in the rear alleyway and minimize the impact on abutting residents as much as practicable; (3) no nuisance or serious hazard to vehicles or

pedestrians will be created because the two existing parking spaces will remain and the conversion from commercial to residential will lessen the pedestrian and vehicular traffic to and from the site; (4) adequate and appropriate facilities will be provided for the proper operation and proposed use; and (5) development will not have a significant adverse effect on the supply on housing available for low and moderate income people and will improve the supply of affordable housing within the Town.

Zoning Board of Appeals Chairman Schneider asked if there was anyone present who wished to speak in favor of this application. No one spoke in favor of the application.

Zoning Board of Appeals Chairman Schneider asked if there was anyone present who wished to speak in opposition to the application. No one spoke in opposition to the application.

Jay Rosa, Zoning Coordinator for the Town of Brookline, delivered the findings of the Planning Board and the Building Department:

FINDINGS:

Section 5.09.2.d – Design Review

Exterior alterations to a building containing multiple dwellings with four or more units on the premises is subject to design review standards listed under Section 5.09.4 (a-m). The most relevant design review standards are described below:

- a. Preservation of Trees and Landscape – Several existing plantings in the front-yard will be removed and the natural grade of the front-yard area will be altered in order to install the proposed basement entry. Despite this alteration/soil removal, the basement level entrance is consistent with the general appearance of neighboring structures, particularly amongst attached townhouses at 1774 and 1778 Beacon Street. Minimal landscaped open space will also be maintained on both sides of the proposed brick walkway.
- c. Relation of Buildings to the Form of the Streetscape and Neighborhood – Basement level entrances of comparable design and scope are common along this portion of Beacon Street (1834, 1824, 1774, 1768, 1742, 1728). The applicant's proposed exterior alterations do not substantially detract from the existing area streetscape and a deliberate effort was made to mimic the design of the adjacent basement entrance at 1774 Beacon Street.
- d. Open Space – The 1776 Beacon Street property does not comply with either landscaped open space or open space requirements for the M-2.0 district. This condition is pre-existing and the applicant proposes to maintain existing landscaped open space, insofar as practicable, within the front-yard.

- e. Circulation – The proposed basement entry serves to improve both interior and exterior pedestrian circulation. Pedestrians visiting the basement office are no longer required to enter residential portions of the structure, and direct access is provided from area public parking and public transit. The applicant is also proposing to improve existing trash storage and to install a new bicycle rack at the rear. No additional off-street parking spaces are included in this conversion proposal therefore increased vehicular traffic within the rear ally is not anticipated.
- j. Safety and Security – The design of the proposed basement entrance is specifically intended to improve natural light and emergency egress. Additionally, this entrance will create a clear separation between residential and office uses.
- k. Heritage – 1776 Beacon Street is located within the Beacon Street National Register and State Register District. The majority of proposed façade alterations will occur below the natural grade and two of the three visible basement windows will not be altered. Proposed façade alterations also limit the disruption of significant architectural elements. The applicant also intends to repair deteriorating portions of the stone façade and roof.

Section 6.02, Paragraph 1 – Table of Off-Street Parking Requirements

Section 6.01.2.a – General Regulations Applying to Required Off-Street Parking Facilities

The proposed use conversion results in a required parking increase of 1.6 off-street spaces. The Board of Appeals may waive up to 50% of these additional required spaces (.8) and the property will maintain 2 existing off-street parking spaces.

	Existing Use	Existing Parking Req.	Proposed Use	Proposed Parking Req.	Relief Required
Total Required	6 Offices; 1 Residential	12.3	1 Office; 6 Residential	13.9	Special Permit*
Existing Parking		2		2	

**Under Section 6.01.2.a of the Zoning By-Law, when a structure within an M District is converted for one or more additional dwelling units and the conversion results in an increased parking requirement, parking requirements for the entire structure shall be provided in accordance with the requirements of §6.02 and §6.05. However, the Board of Appeals by special permit under Article IX may waive not more than one-half the number of parking spaces required.*

Section 8.02.1 and 2 – Alteration or Extension

A special permit is required to alter the non-conforming structure and uses.

Modification, as required, of BOA case #946 – June 4, 1959 and modified December 17, 1997

Special permit relief was previously granted to create 6 offices within the 1776 Beacon Street town house. This proposal will convert all but one of these offices back to residential use.

Mr. Rosa confirmed that the Planning Board specifically recommended the reconfigured front basement entry design that Mr. Warner included in the revised plans, but the Planning Board requested

final review of the design and the materials to be used, which is standard for all façade alterations along Beacon Street. He stated that the Planning Board was satisfied that the site was adequately served by public transportation and street parking, but deferred to the Board of Appeals and the Building Department's interpretation of the parking credit. Mr. Rosa stated that in general, the Planning Board supported the conversion from offices which are a non-conforming use in the M-2.0 zoning district. Therefore, the Planning Board recommended approval of plans submitted by George Warner, dated 11/13/2015, and the site plan submitted by John Hamel, dated 9/4/2015, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan including the front staircase configuration, provided off-street parking, and the location of all trash/recycling facilities, final floor plans including gross floor area calculations, a final front elevation including all window and door dimensions, and a final building section that specifically details the new basement level entryway, subject to the review and approval of the Assistant Director for Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan for the front-yard area along Beacon Street, subject to the review and approval of the Assistant Director for Regulatory Planning.
3. Prior to the issuance of a building permit, the applicant shall submit plans for any window replacement that indicate window profiles, materials, and colors, subject to the review and approval of the Planning Board.
4. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner, for review and approval for conformance to the Board of Appeals Decision: 1) final floor plans, sections and elevations stamped and signed by a registered architect or engineer; 2) a final site plan, stamped and signed by a registered engineer or land surveyor; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Mr. Rosa suggested that the Board consider revising these recommended conditions to require Planning Board approval of final elevations and sections rather than the Assistant Director for Regulatory Planning.

Chairman Schneider requested that Deputy Building Commissioner Michael Yanovitch review the opinion of the Building Department. Mr. Yanovitch stated that the Building Department has no objection to the Petitioner's request to bring this structure further into compliance with use requirements

for the zoning district, particularly because minimal zoning relief is required to do so. Mr. Yanovitch also confirmed that cited parking relief is a direct result of use changes rather than a floor area increase. Mr. Yanovitch confirmed that the Building Department will work with the Petitioner to ensure compliance with all imposed conditions and building codes if the Board does find that the standards for special permit relief have been satisfied.

In deliberation, Board Member Avi Liss supported the Planning Board and Building Department comments. Mr. Liss stated that the two most compelling arguments in support of this requested relief are (1) the conversion to conforming residential uses and (2) the consistency that the multi-family residential building will have with the surrounding neighborhood. Mr. Liss believed that the standards for special permit relief, in accordance with Section 9.05 of the Zoning By-Law, are satisfied. Mr. Liss supported the request for reduced parking because the subject property is directly adjacent to reliable public transportation. Board Member Hussey concurred with Mr. Liss' comments and stated support for the requested relief.

Chairman Schneider also supported the Petitioner's request for zoning relief. Ms. Schneider specifically noted that the as-of-right residential units are more consistent when considering surrounding apartment buildings. Ms. Schneider agreed that the subject property is well served by public transportation and located in a highly walkable area. Ms. Schneider agreed that the applicable design review standards were adequately satisfied and supported revised conditions that were stated for the record.

The Board then determined, by unanimous vote that the requirements for a special permit to Modify, as required, BOA case # 946 and 946A and for Sections 5.09.2.d, 6.02, Paragraph 1, and Section 8.02.2 of the Zoning By-Law pursuant to Section 6.01.2.a of the Zoning By-Law were met. The Board made the following specific findings pursuant to said Section 9.05:

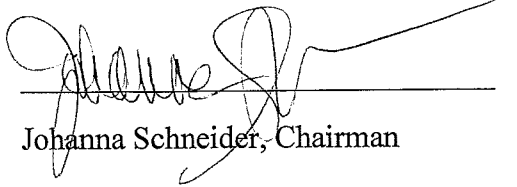
- a. The specific site is an appropriate location for such a use, structure, or condition.

- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- e. Development will not have any effect on the supply of housing available for low and moderate income people.

Accordingly, the Board voted unanimously to grant the requested relief subject to the following revised conditions:

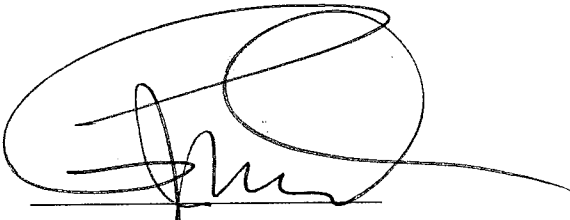
- 1. Prior to the issuance of a building permit, the applicant shall submit a final site plan including the front staircase configuration, provided off-street parking, and the location of all trash/recycling facilities, and final floor plans including gross floor area calculations, subject to the review and approval of the Assistant Director for Regulatory Planning.**
- 2. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan for the front-yard area along Beacon Street, subject to the review and approval of the Assistant Director for Regulatory Planning.**
- 3. Prior to the issuance of a building permit, the applicant shall submit a final building section specifically detailing the new basement level entry, and a final front elevation including building materials, window and door sizes, and colors, subject to the review and approval of the Planning Board.**
- 4. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner, for review and approval for conformance to the Board of Appeals Decision: 1) final floor plans, sections and elevations stamped and signed by a registered architect or engineer; 2) a final site plan, stamped and signed by a registered engineer or land surveyor; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.**

**Unanimous decision of the
Board of Appeals**


Johanna Schneider, Chairman

Filing Date: 2/1/16
A True Copy

ATTEST:


Patrick J. Ward
Clerk, Board of Appeals

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